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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,931	08/05/2003	Wayne A. Sohren	P02,0499 (H0002385)	3825

7590 06/19/2006
HONEYWELL INTERNATIONAL INC.
Law Dept. AB2
P.O. Box 2245
Morristown, NJ 07962-9806

EXAMINER

ROY, ANURADHA

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/634,931	Applicant(s) SOEHREN ET AL.	
	Examiner Anuradha Roy	Art Unit 3736	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's central assertion states, "Root patent does not disclose a motion classification unit that classifies motion based on motion sensors." However, in the previous office action, Examiner stated "the motion classification unit (central processing unit) as disclosed by Root et al. does anticipate data reception from motion sensors (GPS as shown in the previous office action) and generation of a motion type indicator signal (for example, "average speed" in Figure 11)." Furthermore, Applicant's specification discloses "...the motion identification apparatus 12 measures the distance moved and a classification of the motion, whether it be standing (no motion), walking (slow motion), or running (fast motion)." It is noted that Root et al. does disclose "a smart algorithm based on measured parameters such as speed, pace, exercise type, heart rate, and so forth can be optionally used to automatically determine if the athlete has temporarily suspended exercising and temporarily pauses monitoring until exercise is resumed." Therefore, Root et al. anticipates a motion classification unit that classifies motion based on motion sensors, as claimed.

In regards to claims 1 & 2, as noted in the previous office action, Root discloses a filter ("special algorithm," Column 7, lines 52-56) connected to receive data from said motion classification unit ("central processing unit") and from said sensors ("GPS," "heart sensor," & "temperature sensors"), said filter having an output (signal from the CPU minus the "erroneous position points") connected to said motion classification unit ("central processing unit") and said energy estimator unit (within the CPU directed to Figure 11, "calories burned") said health monitor unit (within the CPU directed to Figure 11, "heart rate") so that said energy estimator unit is operable to identify an energy expenditure ("calories burned") by the human. The filter disclosed by Root, which filters out erroneous position points anticipates the reception of data from claimed sensors (via the motion classification unit). For the reasons set forth in the previous office action, it would have been obvious to one having ordinary skill in the art at the time the invention to replace the filter disclosed by Root with a Kalman filter as taught by Foxlin, in order to "decrease the risk of error in the signal readings." Therefore, the Kalman filter is obvious in view of Foxlin.



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